

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

ELLEN SEEGER, THOMAS LEONE, )  
AND COLLIN JILLA , )  
Plaintiffs, )  
v. ) Case No.  
M.R.S. ASSOCIATES, INC., )  
Defendant. ) **Jury Demanded**

## **COMPLAINT**

## **INTRODUCTION**

1. This action seeks redress for collection practices that violate the Fair Debt Collection Practices Act, 15 U.S.C. § 1692.

## **JURISDICTION AND VENUE**

2. The court has jurisdiction to grant the relief sought by the plaintiffs pursuant to 15 U.S.C. § 1692k and 28 U.S.C. §§ 1331 and 1337. Venue in this District is proper in that defendant directed its collection efforts into the District.

## PARTIES

3. Plaintiff Ellen Seeger is an individual who resides in Milwaukee, Wisconsin

4. Plaintiff Thomas Leone is an individual who resides in Cudahy, Wisconsin

5. Plaintiff Collin Jilla is an individual who resides in Milwaukee, Wisconsin.

6. Plaintiffs are "consumers" as defined in the FDCPA, 15 U.S.C. § 1692a(3), in that the defendant attempted to collect alleged debts which have been incurred for personal, family or household purposes.

7. Defendant M.R.S. Associates, Inc. ("M.R.S.") is a debt collection agency with offices in New Jersey.

8. M.R.S. is engaged in the business of collecting upon defaulted debts owed to others and incurred for personal, family or household purposes. M.R.S. is a debt collector as defined in 15 U.S.C. § 1692a.

### **FACTS**

9. In December 2004, Plaintiff Seeger received a debt collection letter from M.R.S. regarding an alleged debt. See Exhibit A. Exhibit A is dated December 3, 2004.

10. Exhibit A states that "In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time."

11. In December 2004, Plaintiff Seeger received another debt collection from M.R.S. regarding a different alleged debt. See Exhibit B. Exhibit B is dated December 16, 2004.

12. Exhibit B states that the name of the creditor is "Capital One."

13. Exhibit B also states that "In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time." It also states "This agreement will permit you to liquidate the amount over a reasonable period of time with monthly payments of , beginning 12/17/04."

14. In January 2005 Plaintiff Leone received a debt collection letter from M.R.S. regarding an alleged debt. See Exhibit C.

15. Exhibit C states that the name of the creditor is "Capital One."

16. Exhibit C also states that "In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time."

17. In June 2005 Plaintiff Jilla received a debt collection letter from M.R.S. regarding an alleged debt. See Exhibit D. Exhibit D states that the name of the creditor is "Capital One" and also states that "In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time."

18. Upon information and belief, the true name of the creditor of the alleged debt referenced in Exhibit B, C, and D is Capital One Bank or Capital One F.S.B.

#### **COUNT I—FDCPA**

19. Plaintiffs incorporate the above numbered paragraphs by reference.

20. Defendant has failed to identify the creditor, instead providing a partial reference which could apply to a number of corporations, including Capital One Services, Inc., Capital One Bank, Capital One Financial Corporation, Capital One F.S.B. and Capital One Auto Finance, Inc.

21. The defendant has therefore violated 15 U.S.C. § 1692g(a)(2), by failing to state the name of the creditor.

#### **COUNT II—FDCPA**

22. Plaintiffs incorporate the above numbered paragraphs by reference.

23. Defendant's form statement, "In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time" is false and misleading. This statement is made without any information pertaining to the income or financial condition of the consumer, and the files maintained by defendant do not reflect the financial condition of the consumer.

24. This statement violates 15 U.S.C. §§ 1692e and 1692e(2)(B) (prohibiting the false representation of "Any services rendered . . .").

### **CLASS ALLEGATIONS**

25. Plaintiffs bring this claim on behalf of a class, consisting of (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter stating "In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time" (c) seeking to collect a debt for personal, family or household purposes, (d) on or after a date one year prior to the filing of this action, (e) that was not returned by the postal service.

26. The class is so numerous that joinder is impracticable. On information and belief, there are more than 50 members of the class.

27. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether the defendant's statement "In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time" is false and misleading.

28. Plaintiffs' claims are typical of the claims of the class members. All are based on the same factual and legal theories.

29. Plaintiffs will fairly and adequately represent the interests of the class members. Plaintiffs have retained counsel experienced in consumer credit and debt collection abuse cases.

30. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

WHEREFORE, plaintiffs request that the Court enter judgment in favor of plaintiffs and against defendant for:

- a. Statutory damages;
- b. Attorney's fees, litigation expenses and costs of suit;
- c. Such other or further relief as the Court deems proper.

**JURY DEMAND**

Plaintiffs demand trial by jury.

Respectfully submitted,

S/ Robert K. O'Reilly  
Robert K. O'Reilly (SBN 1027032)  
John D. Blythin (SBN 1046105)  
J. Scott Schnurer (SBN 1035858)  
ADEMI & O'REILLY, LLP  
3620 East Layton Avenue  
Cudahy, Wisconsin 53110  
roreilly@ademilaw.com  
(414) 482-8000  
(414) 482-8001 (FAX)

# EXHIBIT A

TOTALS 207000199222

3 EXECUTIVE CAMPUS, SUITE 40  
CHERRY HILL, NJ 08002-4103  
RETURN ADDRESS

RETURN SERVICE REQUESTED

December 3, 2004

IF PAYING BY MASTERCARD, VISA OR AMERICAN EXPRESS, FILL OUT BELOW					
CHECK CARD USING FOR PAYMENT					
	<input type="checkbox"/> MASTERCARD		<input type="checkbox"/> VISA		<input type="checkbox"/> AMERICAN EXPRESS
CARD NUMBER		CVV2 CODE*			
SIGNATURE		EXP. DATE			
CLT ACCT #	MRS ACCT #	AMOUNT DUE			
4610078464358753	4961008	\$569.75			

RE:

FIRST PREMIER BANK

6525.1A

RECIPIENT ADDRESS SEE: RECIPIENT ADDRESS

ELLEN SEEGER  
4610 S 49TH ST  
MILWAUKEE, WI 53220-4118

RECIPIENT PAYMENT / REPLY TO: RECIPIENT

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL, NJ 08002-4103

17823-S603\*1E600NHB007029 509

\* See back for details

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT

RE: FIRST PREMIER BANK  
CLT ACCT #: 4610078464358753  
MRS ACCT #: 4961008  
**AMOUNT DUE: \$569.75**

Office Hours:  
Mon Thurs 8am-9pm EST  
Fri 8am-5pm EST  
Sat 8am-12pm EST  
Sun 9am-12pm EST

Dear Ellen Seeger,

In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time.

We have permission from our client to accept and work out a time payment plan with you. This agreement will permit you to liquidate the account over a reasonable period of time with monthly payments of **\$50.00** beginning **Dec 22nd**.

Make all checks payable to FIRST PREMIER BANK.

If you have any questions or want to discuss this arrangement, please contact our office immediately. Otherwise, we'll expect to receive your first payment on or before **Dec 22nd**.

Sincerely,  
Debbie Gust  
Collection Manager  
(877) 508 - 6302

Office Handling Your Account:

M.R.S. ASSOCIATES, INC.  
6530 W. CAMPUS OVAL  
NEW ALBANY, OH 43054-8755

This is an attempt to collect a debt and any information obtained will be used for that purpose.  
This communication is from a debt collection agency.

**PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.**  
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IF ANY OF THE FOLLOWING IS INCORRECT OR HAS CHANGED, PLEASE INDICATE . . .

Your Name \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_

S603BAC2

**Western Union Payment Instructions**

Western Union "Quick Collect" - Quick and Easy!

Use Blue and White form

Pay to: M.R.S. ASSOCIATES, INC.

Code City: MAPLE State: NJ

For questions about how to pay your bill using Western Union - call them at 800-238-5772 or call our office.

**COLORADO RESIDENTS:**

FOR MORE INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE [WWW.AGO.STATE.CO.US/CAB.HTM](http://WWW.AGO.STATE.CO.US/CAB.HTM).

**MASSACHUSETTS RESIDENTS:**

NOTICE OF IMPORTANT RIGHTS

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE COLLECTION AGENCY.

**MINNESOTA RESIDENTS:**

This collection agency is licensed by the Minnesota Department of Commerce.

**NEW YORK CITY RESIDENTS:**

New York City Department of Consumer Affairs, license number 1016281.

**NORTH CAROLINA RESIDENTS:**

North Carolina Department of Insurance, permit number 3122 or permit number 3486.

**TENNESSEE RESIDENTS:**

This collection agency is licensed by the Collection Service Board, State Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243.

**CALIFORNIA RESIDENTS:**

The state Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest, or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).

\*For your protection, we request that you provide your credit card verification code in addition to your Master Card, Visa or American Express card number. If you are paying with Master Card or Visa, your verification code is located on the back of your card. It is a three-digit number printed on the signature panel immediately following your account number. If you are paying with American Express, your verification code is located on the front of your card. It is a four-digit number above the credit card number on either the right side or left side of your card. We are requesting this number as an additional security precaution.



# EXHIBIT B



M.R.S.ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002



Office Hours :  
Mon - Thurs 8am - 9pm EST  
Fri - 8am - 5pm EST  
Sat - 8am - 12pm EST  
Sun - 9am - 12pm EST

December 16, 2004

M.R.S.ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

04898089-009 06632  
ELLEN SEEGER  
4610 S 49TH ST  
MILWAUKEE WI 53220-4118

CLT ACCT # :  
5291152118970579

MRS ACCT # :  
04898089

ACCOUNT BAL. :  
\$1542.45

RE : CAPITAL ONE

(Interest may accrue on unpaid balances)

IMPORTANT: TO RECEIVE PROPER CREDIT BE SURE TO ENCLOSE THIS PORTION WITH YOUR PAYMENT IN FULL  
SEE REVERSE SIDE FOR CREDIT CARD AND WESTERN UNION PAYMENT INFORMATION

RE : CAPITAL ONE  
CLT ACCT# : 5291152118970579  
MRS ACCT# : 04898089  
ACCOUNT BALANCE : \$1542.45 (Interest may accrue on unpaid balances)  
MONTHLY PAYMENT :

M.R.S.ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

Dear ELLEN SEEGER,

In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time.

We have permission from our client to accept and work out a time payment plan with you. This agreement will permit you to liquidate the account over a reasonable period of time with monthly payments of , beginning 12/17/04.

Make all checks payable to CAPITAL ONE.

If you have any questions or want to discuss this arrangement, please contact our office immediately. Otherwise, we'll expect to receive your first payment on or before 12/17/04.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This is a communication from a debt collection agency.

Sincerely,

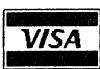
*Kelli Coia*  
Kelli Coia  
Operations Manager 1-877-774-7993  
M.R.S.ASSOCIATES, INC.

**PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.**

If you wish to pay by credit card, please fill out the area below and return in the enclosed envelope or fax to us at the number 856-488-5134 or you may E-Mail credit card information to : [payments@mrsassociates.com](mailto:payments@mrsassociates.com)

For your protection, we request that you provide your credit card verification code in addition to your Master Card, Visa or American Express card number. If you are paying with Master Card or Visa, your verification code is located on the back of your card. It is a three-digit number printed on the signature panel immediately following your account number. If you are paying with American Express, your verification code is located on the front of your card. It is a four-digit number above the credit card number on either the right side or left side of your card. We are requesting this number as an additional security precaution.

Check One:  Visa



MasterCard



American Express



Card #:

**MRS ACCT # :**  
**04898089**

Credit Card Verification #:

Expiration Date:  /  /

Amount of Payment: \$

Signature of Cardholder

Cardholder Name

Driver's License

### **Western Union Payment Instructions**

#### **Western Union "Quick Collect" - Quick and Easy !**

Use Blue and White form

Pay to : M.R.S.ASSOCIATES, INC.

Code City : MAPLE State: NJ

For questions about how to pay your bill using Western Union - call them at 800-238-5772 or call our office.

#### **CALIFORNIA RESIDENTS:**

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).

#### **COLORADO RESIDENTS:**

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#### **MASSACHUSETTS RESIDENTS:**

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#### **MINNESOTA RESIDENTS:**

This collection agency is licensed by the Minnesota Department of Commerce.

#### **NEW YORK CITY RESIDENTS:**

New York City Department of Consumer Affairs, license number 1016281.

#### **NORTH CAROLINA RESIDENTS:**

North Carolina Department of Insurance, permit number 3122 or permit number 3486.

#### **TENNESSEE RESIDENTS:**

This collection agency is licensed by the Collection Service Board, State Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243.

# EXHIBIT C



Return Address :  
 M.R.S. ASSOCIATES, INC.  
 3 EXECUTIVE CAMPUS, SUITE 400  
 CHERRY HILL NJ 08002



Office Handling Your Account :  
 M.R.S. Associates, Inc.  
 3 Executive Campus, Suite 400  
 Cherry Hill NJ 08002  
 1-800-514-1841

Office Hours :  
 Monday - Thursday 8am - 9pm ET  
 Friday 8am - 5pm ET  
 Saturday 8am - 12pm ET

January 10, 2005

Payment To / Correspondence To :  
 M.R.S. ASSOCIATES, INC.  
 3 EXECUTIVE CAMPUS, SUITE 400  
 CHERRY HILL NJ 08002

S-DK014670 L-009 A-04984171  
 P019VI00200526 I01053  
 THOMAS M LEONE  
 3741 E ARNONE  
 CUDAHY WI 53110

CLT ACCT # : 4862362160926823	MRS ACCT # : 04984171	ACCT. BALANCE \$3282.74
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RE : CAPITAL ONE

(Interest may accrue on unpaid balances)

-- **IMPORTANT: TO RECEIVE PROPER CREDIT BE SURE TO ENCLOSE THIS PORTION WITH YOUR PAYMENT IN FULL**   
**SEE REVERSE SIDE FOR CREDIT CARD AND WESTERN UNION PAYMENT INFORMATION**

RE : CAPITAL ONE  
 CLT ACCT# : 4862362160926823  
 MRS ACCT# : 04984171  
 ACCOUNT BALANCE : \$3282.74 (Interest may accrue on unpaid balances)  
 MONTHLY PAYMENT :

Office Handling Your Account :  
 M.R.S. Associates, Inc.  
 3 Executive Campus, Suite 400  
 Cherry Hill NJ 08002  
 1-800-514-1841

Dear THOMAS M LEONE,

In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time.

We have permission from our client to accept and work out a time payment plan with you. This agreement will permit you to liquidate the account over a reasonable period of time with monthly payments of , beginning 01/21/05.

Make all checks payable to CAPITAL ONE.

If you have any questions or want to discuss this arrangement, please contact our office immediately. Otherwise, we'll expect to receive your first payment on or before 01/21/05.

Sincerely,

*Tabitha George*

Tabitha George  
 Director of Operations 1-800-514-1841  
 M.R.S. Associates, Inc.

This is an attempt to collect a debt and any information obtained will be used for that purpose.  
 Case 2:05-cv-01261-RTF Filed 12/05/05 Page 13 of 17 Document 1  
 This communication is from a debt collection agency.

**PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.**

If you wish to pay by credit card, please fill out the area below and return in the enclosed envelope or fax to us at the number 856-488-5134 or you may E-Mail credit card information to : [payments@mrsassociates.com](mailto:payments@mrsassociates.com)

For your protection, we request that you provide your credit card verification code in addition to your Master Card, Visa or American Express card number. If you are paying with Master Card or Visa, your verification code is located on the back of your card. It is a three-digit number printed on the signature panel immediately following your account number. If you are paying with American Express, your verification code is located on the front of your card. It is a four-digit number above the credit card number on either the right side or left side of your card. We are requesting this number as an additional security precaution.

Check One:  Visa



MasterCard



American Express



Card #:

**MRS ACCT # :**  
**04984171**

Credit Card Verification #:

Expiration Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Amount of Payment: \$ \_\_\_\_\_

Signature of Cardholder

Cardholder Name

Driver's License

#### **Western Union "Quick Collect" - Quick and Easy !**

Use Blue and White form

Pay to : M.R.S. Associates, Inc.

Code City : MAPLE State: NJ

For questions about how to pay your bill using Western Union - call them at 800-238-5772 or call our office.

#### **CALIFORNIA RESIDENTS:**

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).

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#### **NORTH CAROLINA RESIDENTS:**

North Carolina Department of Insurance, permit number 3122 or permit number 3486.

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# EXHIBIT D



3 EXECUTIVE CAMPUS, SUITE 40  
CHERRY HILL, NJ 08002-4103  
RETURN ADDRESS

June 6, 2005

IF PAYING BY MASTERCARD, VISA OR AMERICAN EXPRESS, FILL OUT BELOW.					
CHECK CARD USING FOR PAYMENT					
	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
MASTERCARD	VISA	VISA	AMERICAN EXPRESS	AMERICAN EXPRESS	
CARD NUMBER			CVV2 CODE*		
SIGNATURE			EXP. DATE		
CLT ACCT #	MRS ACCT #	AMOUNT DUE			
018675033	5447921	\$3,720.04			
RE: <u>CAPITAL ONE</u>					

17823-S603\*1JC0H8UB6008866 509

\* See back for details.

**PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT**

RE: CAPITAL ONE

CLT ACCT #: 018675033

MRS ACCT #: 5447921

**AMOUNT DUE: \$3,720.04** (Interest may accrue on unpaid balances)

Office Hours:  
Mon Thurs 8am-9pm EST  
Fri 8am-5pm EST  
Sat 8am-12pm EST

Dear Collin M Jilla,

In reviewing our files on your account, we note that your payment of the account in full would create a financial hardship for you at this time.

We have permission from our client to accept and work out a time payment plan with you. This agreement will permit you to liquidate the account over a reasonable period of time with monthly payments of \$99.00 beginning Jun 24th 2005.

Make all checks payable to CAPITAL ONE.

This c.

If you have any questions or want to discuss this arrangement, please contact our office immediately. Otherwise, we'll expect to receive your first payment on or before Jun 24th 2005.

Sincerely,  
Ms. T. George  
Director of Operations  
(800) 514-1841

### Office Handling Your Account:

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL, NJ 08002-4103

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PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION  
Case 2:05-cv-01261-RTR Filed 12/05/05 Page 16 of 17 Document 1

IF ANY OF THE FOLLOWING IS INCORRECT OR HAS CHANGED, PLEASE INDICATE . . . .

Your Name \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_

***Western Union Payment Instructions***

**Western Union "Quick Collect" - Quick and Easy!**

**Use Blue and White form**

**Pay to: M.R.S. ASSOCIATES, INC.**

**Code City: MAPLE State: NJ**

**For questions about how to pay your bill using Western Union - call them at 800-238-5772 or call our office.**

**Your payment may be presented electronically for payment using the Automated Clearing House (ACH) or other means in accordance with applicable banking rules, regulations and/or any other federal or state statutes.**

S603BAC2

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